

**Testimony of**  
**Gary W. Black**  
**President, Georgia Agribusiness Council, Inc.**  
**Commerce, Georgia**

Before the  
**U.S. House Committee on Homeland Security,**  
**Subcommittee on Prevention of Nuclear and Biological**  
**Attacks**

Regarding  
**H.R. 3197, the Secure Handling of Ammonium Nitrate Act**  
**of 2005**

**DESCRIPTION OF TESTIMONY**

A description of the Georgia Agribusiness Council, an outline of  
H.R. 3197 and ammonium nitrate fertilizer use in U.S.  
agriculture.

**December 14, 2005**

## **Introduction**

Mr. Chairman and members of the subcommittee, I am Gary Black, President of the Georgia Agribusiness Council located in Commerce Georgia. I appreciate the opportunity to testify before the House Homeland Security Committee, Subcommittee on Prevention of Nuclear and Biological Attacks regarding H.R. 3197, the "Secure Handling of Ammonium Nitrate Act of 2005."

Furthermore, I would like to thank you Chairman Linder for scheduling this important hearing and for your leadership in addressing the critical issue of advancing ammonium nitrate security measures, which are so vital to the U.S. plant food industry, its many local retail agribusiness outlets and the farmers and livestock producers they serve.

## **Georgia Agribusiness Council**

The Georgia Agribusiness Council (GAC) is a Chamber-like organization with a 40-year history of promoting sound policy for the breadth of Georgia's agricultural industry. Our members range from farmers to input suppliers and from processors to those in transportation of food and fiber. Promoting environmental stewardship and educating the public about the importance of agriculture are the hallmark objectives of our organization.

Mr. Chairman, today I find myself in a rare and unenviable policy dilemma. As you know I have met with you and your staff dozens of times over the years as a spokesman for Georgia farmers, food producers and rural businesses. Many of our meetings have focused on how we could work together to relieve Georgia farmers and agribusinesses of overreaching federal regulation and the unnecessary bureaucracy and burdensome paperwork that usually follows it.

The last thing Georgia farmers need is another regulation. The last thing Georgia livestock and food producers need is more burdensome bureaucracy and paperwork. However, today I am here to state my support of the basic tenets of H.R. 3197, The Secure Handling of Ammonium Nitrate Act. I believe regulation of this vital agricultural input is on the horizon. Further, I believe the best way to institute the most amicable solution to regulatory challenges, Mr. Chairman, is to come to the table early in the process. That is my purpose for being here today.

As you may know, ammonium nitrate fertilizer is an excellent plant nutrient for Georgia's temperate climate and clay soils. More than 59,000 tons of ammonium nitrate is used annually in our state on a variety of row crop and livestock farms. The product is a premiere source of supplementary nitrogen when used alone. The product is also a key element in a host of prescriptive fertilizer blends. Because this important plant nutrient is so effective on our crops and soils, Georgia is the 10th highest state (see attached 2004 Commercial Fertilizer Report) regarding ammonium nitrate fertilizer consumption in the United States.

I believe this important legislation establishes a framework for providing the Georgia Department of Agriculture and the federal Department of Homeland Security the important security information they need. I believe the legislation sets important guidelines for improving our nation's security. Yet, passage of a final version, Mr. Chairman, must accomplish these goals without placing an unreasonable burden on Georgia farmers.

## **H.R. 3197, The Secure Handling of Ammonium Nitrate Act**

On June 13, 2005, Representatives Curt Weldon (R-PA) and Bennie G. Thompson (D-Miss.), as well as other key members of congress, introduced H.R. 3197, the Secure Handling of Ammonium Nitrate Act of 2005.

The legislation before you gives the Department of Homeland Security the authority to create a regulatory system for ammonium nitrate-based fertilizers. The bill contains the following provisions:

The “Secure Handling of Ammonium Nitrate Act” grants the Department of Homeland Security the power to regulate those who produce, sell, and store ammonium nitrate-based fertilizer. Specifically, this bill would allow the Department, in consultation with the Department of Agriculture, to develop regulations that do the following:

1. Create a registry of facilities that handle ammonium nitrate fertilizer;
2. Limit the sale and storage of ammonium nitrate-based fertilizer to facilities that register with the Department; and
3. Condition the sale of ammonium nitrate-based fertilizer on recording the name, address, telephone number, and registration number of the purchaser.

My greatest concern with the legislation centers on the proposed relationship between the Department of Homeland Security, state departments of agriculture and the regulated community. I would prefer that the states maintain the inspection authority since state inspectors already perform duties designed to ensure the integrity and quality of fertilizer products.

The bill seeks to register ammonium nitrate fertilizer producers, sellers, purchasers and users, with the objective of keeping this necessary agriculture plant nutrient in the hands of food producers rather than in the hands of individuals with criminal intent. A totally new systemic registration plan may not be necessary. Many retailers already voluntarily record sales data including the driver’s license information of the purchaser. I believe simple actions to standardize forms and electronic reports throughout the existing system would sufficiently serve the public purpose.

My members would rather not deal with a new set of federal regulators visiting their facilities. Federal block funding for enforcement at the state level by state departments of agriculture would be my preference. While a subjective fine structure allows for situational judgments to take place, the \$50,000 maximum fine looms as a daunting threat over farmers and other small businesses. Well-meaning business owners will on occasion make mistakes, and zealous enforcers sometimes seek to gain an upper hand. Please consider a more reasonable fine structure based on frequency and severity of the violation.

## **Conclusion**

Mr. Chairman, with amendments to accommodate the concerns I have outlined, I believe H.R. 3197 would meet the objectives of the Department of Homeland Security and help keep this valuable agricultural fertilizer in use for continued food production in Georgia and in this nation. We in agriculture want to contribute to initiatives that continue state and federal efforts to maintain and improve national security for the United States and its citizens.

To conclude, allow me to again thank you Chairman Linder and members of the subcommittee for your leadership in addressing the critically important issue of secure handling of ammonium nitrate agricultural fertilizers. Thank you for the opportunity to testify today.

Contact:

**Georgia Agribusiness Council, Inc.  
Post Office Box 119  
Commerce, Georgia 30529**

Phone: 706/336-6830 or 800/726-2474 Fax: 706/336-6898

**Gary W. Black, President**  
[gary.black@ga-agribusiness.org](mailto:gary.black@ga-agribusiness.org)

## **Top 20 Ammonium Nitrate Consuming States - 2004**

Missouri	292,934
Tennessee	146,149
Alabama	105,100
Texas	103,555
California	92,352
Kentucky	74,361
Oklahoma	62,640
Idaho	60,752
Kansas	60,460
Mississippi	59,121
Georgia	47,842
Louisiana	39,341
Arkansas	36,767
Oregon	30,590
Nebraska	30,138
Washington	30,030
North Carolina	29,733
Wyoming	24,605
Florida	21,943
Iowa	21,866

Source: 2004 Commercial Fertilizer Report

Mr. Chairman and members of the subcommittee, I am Gary Black, President of the Georgia Agribusiness Council located in Commerce Georgia. I appreciate the opportunity to testify before the House Homeland Security Committee, Subcommittee on Prevention of Nuclear and Biological Attacks regarding H.R. 3197, the “Secure Handling of Ammonium Nitrate Act of 2005.”

The Georgia Agribusiness Council (GAC) is a Chamber-like organization with a 40-year history of promoting sound policy for the breadth of Georgia’s agricultural industry.

Mr. Chairman, today I find myself in a rare and unenviable policy dilemma. As you know I have met with you and your staff dozens of times over the years as a spokesman for Georgia farmers, food producers and rural businesses. Many of our meetings have focused on how we could work together to relieve Georgia farmers and agribusinesses of overreaching federal regulation and the unnecessary bureaucracy and burdensome paperwork that usually follows it.

The last thing Georgia farmers need is another regulation. The last thing Georgia livestock and food producers need is more burdensome bureaucracy and paperwork. However, today I am here to state my support of the basic tenets of H.R. 3197, “The Secure Handling of Ammonium Nitrate Act.” I believe regulation of this vital agricultural input is on the horizon. Further, I believe the best way to institute the most amicable solution to regulatory challenges, Mr. Chairman, is to come to the table early in the process. That is my purpose for being here today.

As you may know, ammonium nitrate fertilizer is an excellent plant nutrient for Georgia's temperate climate and clay soils. More than 59,000 tons of ammonium nitrate is used annually in our state on a variety of row crop and livestock farms. Because this important plant nutrient is so effective on our crops and soils, Georgia is the 10th highest state regarding ammonium nitrate fertilizer consumption in the United States. (2004 Commercial Fertilizer Report attached)

I believe this important legislation establishes a framework for providing the Georgia Department of Agriculture and the federal Department of Homeland Security the important security information they need. I believe the legislation sets important guidelines for improving our nation's security. Yet, passage of a final version, Mr. Chairman, must accomplish these goals without placing an unreasonable burden on Georgia farmers and agricultural retailers.

My greatest concern with the legislation centers on the proposed relationship between the Department of Homeland Security, state departments of agriculture and the regulated community. I would prefer that the states maintain the inspection authority since state inspectors already perform duties designed to ensure the integrity and quality of fertilizer products. The bill seeks to register ammonium nitrate fertilizer producers, sellers, purchasers and users, with the objective of keeping this necessary agriculture plant nutrient in the hands of food producers rather than in the hands of individuals with criminal intent. A totally new systemic registration plan may not be necessary. Many retailers already voluntarily record sales data including the driver's license information of the purchaser. I believe simple actions to standardize forms and electronic reports throughout the existing system would sufficiently serve the public purpose.

My members would rather not deal with a new set of federal regulators visiting their facilities. Federal block funding for enforcement at the state level by state departments of agriculture would be my preference. While a subjective fine structure allows for situational judgements to take place, the \$50,000 maximum fine looms as a daunting threat over farmers and other small businesses. Well-meaning business owners will on occasion make mistakes, and zealous enforcers sometimes seek to gain an upper hand. Please consider a more reasonable fine structure based on frequency and severity of the violation.

Mr. Chairman, with amendments to accommodate the concerns I have outlined, I believe H.R. 3197 would meet the objectives of the Department of Homeland Security and help keep this valuable agricultural fertilizer in use for continued food production in Georgia and in this nation. We in agriculture want to contribute to initiatives that continue state and federal efforts to maintain and improve national security for the United States and its citizens.

To conclude, allow me to again thank you Chairman Linder and members of the subcommittee for your leadership in addressing the critically important issue of secure handling of ammonium nitrate agricultural fertilizers. Thank you for the opportunity to testify today.